

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v-

No. 19 CR 651-LTS-6

THEOFRASTOS LYMBERATOS,

Defendant(s).

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Laura Taylor Swain, District Judge:

ORDER

On January 12, 2022, Theofrastos Lymberatos (“Defendant”) was sentenced principally to a term of imprisonment of 47 months following his plea of guilty to charges relating to conspiracy to commit wire and bank fraud, in violation of 18 U.S.C. section 1349. The Defendant’s sentencing guidelines range was 57 to 63 months’ imprisonment, based on an offense level of 24 and a criminal history category of I. The Bureau of Prisons currently projects that the Defendant will be released from prison on May 27, 2025.

Effective November 1, 2023, in its Amendment 821, the United States Sentencing Commission (“Sentencing Commission”) amended the United States Sentencing Guidelines Manual in two respects. Part A amends Guidelines § 4A1.1, by reducing from two (2) points to one (1) point the upward adjustment for offenders who committed the instant offense while under any criminal sentence, and by limiting this adjustment to defendants who received seven (7) or more criminal history points. Part B, which is relevant here, amends Guidelines § 4C1.1, by providing a 2-level offense level reduction for offenders with zero (0) criminal history points who meet specified eligibility criteria. The Sentencing Commission made these amendments

retroactive effective November 1, 2023. Defendants whose requests are granted by the courts can be released from prison no earlier than February 1, 2024.

Defendant has made a motion for reduction in his sentence. (Docket Entry No. 1479.) The Probation Department has issued a report indicating Defendant is eligible for a reduction. (Docket entry no. 1489.)

Pursuant to the standing order of the Chief Judge of this District, the Magistrate Court is directed to appoint CJA counsel to represent the Defendant in connection with this Court's consideration of whether the Defendant's sentence should be modified in light of Amendment 821.

IT IS ORDERED that, no later than **December 20, 2023**, the Government shall file a statement of its position on the motion for modification of the Defendant's sentence.

IT IS FURTHER ORDERED that the Defendant shall file his response, if any, no later than **January 10, 2024**.

The Court's intention, unless it orders otherwise, is to resolve this motion based on the parties' written submissions.

Chambers will mail a copy of this Order to the Defendant at the address below.

SO ORDERED.

Dated: New York, New York
November 27, 2023

/s/ Laura Taylor Swain
Laura Taylor Swain
United States District Judge

cc: Jennifer Brown, Esq., Federal Defenders of New York

Mailed to:

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